

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

RYKER WILLIAM SCHENCK,
Petitioner,
v.
MARIN SUPERIOR COURT, et al.,
Respondents.

Case No. C 12-06396 CW (PR)

Appeal No. 13-15800

ORDER GRANTING LEAVE TO PROCEED
IN FORMA PAUPERIS ON APPEAL

The Court granted Petitioner, a state prisoner proceeding pro se, leave to proceed in forma pauperis (IFP) in this action. The case was filed as a habeas corpus petition, but included both habeas corpus and civil rights claims. Upon review of the allegations in the petition, the Court found the habeas claims unexhausted and the civil rights claims duplicative of others raised by Petitioner in previous actions that had been dismissed. Thus, the Court dismissed the habeas claims without prejudice to Petitioner's filing a habeas petition after exhausting state remedies and dismissed the civil rights claims without prejudice as duplicative.

Petitioner has filed a notice of appeal. The United States Court of Appeals for the Ninth Circuit has referred the case back to this Court for a determination whether his IFP status should be revoked. Rule 24(a)(3) of the Federal Rules of Appellate Procedure provides that a party granted leave to proceed IFP in the district court may continue in that status on appeal unless the district court certifies that the appeal is not taken in good

1 faith. The Court concludes that Petitioner's appeal is taken in
2 good faith. Accordingly, leave to proceed IFP on appeal is
3 GRANTED.

4 The Clerk of the Court shall serve a copy of this Order on
5 Petitioner and on the Court of Appeals.

6 IT IS SO ORDERED.

7 Dated: 4/30/2013

A handwritten signature in blue ink, appearing to read 'Claudia Wilken', is written over a horizontal line.

8 CLAUDIA WILKEN
9 UNITED STATES DISTRICT JUDGE
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